



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/155,740 02/27/98 LEWIS

D 0885/00930

DARBY & DARBY
805 THIRD AVENUE
27TH FLOOR
NEW YORK NY 10022

IM62/0404

EXAMINER

PRATT, H

ART UNIT

PAPER NUMBER

1761

DATE MAILED:

04/04/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/155740

Applicant(s)

Lewis et al

Examiner

Pratt, H.

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 2-28-00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-17 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1761

DETAILED ACTION

INFORMATION DISCLOSURE STATEMENT

Applicants should furnish a copy of the references listed on their PCT form 210 which are not readily available to the office plus an information form listing them.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinwand or Reznik in view of the prior art and GB 1004522 and GB 1228175 (from Applicants PCT) and Hsieh et al.

The claims are rejected for the reasons of record cited in the last office action. Further the GB patents disclose a process for treatment of dried pulses which included slitting the skins of the pulses and then infusing them with water activity solutes, such as sugar solutions. Hsieh et al. disclose a process for infusing a dried fruit with a liquid humectant such as raisins. ^(abstract) As the products of the GB patents and Hsieh et al. disclose dried pulses and raisins, it is not seen how the skins of these materials are not cracked because they are dried. No patentable distinction is seen between pulses which are vegetables and fruits at this time. Therefore, it would have been obvious to disrupt the structure of the fruit and to infuse it with solutes.

Art Unit: 1761

Allowable Subject Matter

The claims would be allowable if limited to "consisting essentially of" to eliminate the processes of other references.

ARGUMENTS

Applicant's arguments with respect to claim 2-28-00 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication should be directed to Helen Pratt at telephone number (703) 308-1978.

hp 4-3-00

A handwritten signature in cursive script, appearing to read "H. Pratt".

Helen Pratt, Primary Examiner